IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

**APPEAL NO.453 OF 2005**
FROM
CHAMBER SUMMONS NO.513 OF 2003
IN
EXECUTION APPLICATION NO.573 OF 2001
IN
MANIPAL ARBITRATION PETITION NO.15 OF 2000

Ispat Industries Ltd., ..Appellants

Versus

Maharashtra Apex Corporation Ltd.,
and Ors. ..Respondents

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Mr.Shailesh Shah with Ms.Deepa Mani i/by S.K.Srivastava & Co. for the appellants.

Mr.A.R.Bamne for Respondent No.1.

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**Coram : R.M.LODHA &**
**J.P.DEVADHAR,JJ**

Date : 29th June, 2005.

PC

. Heard Mr.Shailesh Shah learned Counsel for the appellants. We also perused the order dated 15.3.2005 passed by the learned Chamber Judge.

2. The appellants before us took out Chamber summons for raising attachment in respect of movable properties lying in flat no.141, Cuffe parade, Persopolis Premises Co-op. Housing Society Ltd., Plot No.100, Cuffe Parade, Mumbai-400 005. It appears that the present appellants were given an opportunity to establish title in respect of the movable properties which were attached. The present

appellants failed to establish the title in respect of the movable properties before the Commissioner. No document of any nature what-so-ever was produced indicating the title of the movable properties.

3. We may notice that the present appellants earlier took out Chamber summons for raising the attachment levied on flat no.141 itself. The said Chamber summons came to be disposed of by the learned Chamber Judge on 28.7.2004. Paragraph-2 of the said order read thus :-

> Mr.Shah appearing in support of all these Chamber summonses contends that initially the movables stored in the said flat and belonging to the respondents judgement-debtor were attached in October 2001 by the petitioner-decree holder to execute the award in their favour. Subsequently on 25th November 2001 even the flat has been attached. Mr.Shah submits that there has been some delay in taking out these Chamber summoneses but considering the fact that proceedings have been pending even for raising the attachment of movables and the applicants being a public limited company, the delay be condoned in the interest of justice.

4. It transpires from the afore-quoted paragraph-2 that it was submitted on behalf of the present appellants that the movables that were stored in the said flat belonged to the Judgment-debtor. Now in support of the present Chamber summons for raising the attachment of movable properties the appellants contend that the movables belong to them. The appellants seem to be taking inconsistent stand

about the movables. Such inconsistent stand coupled with the fact that no evidence was produced by the present appellants to establish their title before the Commissioner are sufficient for not admitting the appeal.

5. Appeal is dismissed in limine.

**(R.M.LODHA,J)**

**(J.P.DEVADHAR,J)**